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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 JAMES OSKAR HILDINGER,

12 Plaintiff,

13 v.

14 CAROLYN W. COLVIN, Acting  
15 Commissioner of Social Security,  
16 Defendant.  
17

Civil No.13-CV-1370-W (WVG)

ORDER GRANTING **AMENDED**  
STIPULATION FOR THE AWARD  
AND PAYMENT OF ATTORNEY  
FEES AND EXPENSES  
PURSUANT TO THE EQUAL  
ACCESS TO JUSTICE ACT, 28  
U.S.C. § 2412(d) AND COSTS  
PURSUANT TO 28 U.S.C. § 1920

[DOC. NO. 25]

18  
19 On August 28, 2014, the parties filed a Motion for Attorney Fees and  
20 Expenses Under the Equal Access to Justice Act (“EAJA”). (Doc. No. 23.) The parties  
21 have agreed, subject to the approval of the Court, that Plaintiff James Oskar Hildinger  
22 (“Plaintiff”) be awarded attorney’s fees and expenses in the amount of \$3,000.00 under  
23 the EAJA. Id. at 1. In their Motion, the parties stated that the \$3,000.00 amount  
24 represents compensation for all legal services rendered on behalf of Plaintiff by counsel  
25 in connection with the above entitled civil action, in accordance with 28 U.S.C. §  
26 2412(d). Id.

27 On September 11, 2014 this Court denied without prejudice the parties’  
28 Motion for Attorney Fees and Expenses Under the EAJA for failure to include “an

1 itemized statement from an attorney...stating the actual time expended and the rate at  
2 which fees and other expenses were computed,” as required by 28 U.S.C. §  
3 2412(d)(1)(B). (Doc. No. 24 at 2). The Court Ordered the parties to resubmit their  
4 motion consistent with Section 2412(d)(1)(B). Id.

5 On September 17, 2014, the parties filed an Amended Motion for Attorneys  
6 Fees and EAJA. (Doc. No. 25.) Once again, the Amended Motion did not include an  
7 itemized statement from an attorney stating the actual time expended and the rate at  
8 which fees and other expenses were computed, as required by Section 2412(d)(1)(B),  
9 and Ordered by the Court. On September 17, 2014, the Court’s clerk contacted  
10 Plaintiff’s counsel to inquire about the failure to provide an itemized statement. On  
11 September 18, 2014, Plaintiff filed a Notice of Filing of Exhibit 2 to the Stipulation for  
12 Fees. (Doc. No. 26.) Exhibit 2 included an itemized statement from an attorney stating  
13 the actual time expended, but the rate of the two Responsible Attorneys was cutoff and  
14 not readable.

15 On September 24, 2014, the Court’s clerk again contacted Plaintiff’s counsel  
16 to inquire about re-filing Exhibit 2 so that the rate of the two Responsible Attorneys  
17 could be deciphered, as required by Section 2412(d)(1)(B). The voicemail was full for  
18 both of the Responsible Attorneys listed on the statement in Exhibit 2, and therefore,  
19 the Court’s clerk was unable to leave a voice message for either attorney. This is a  
20 Motion requesting attorney’s fees to be paid to Plaintiff’s counsel. The Court would  
21 expect that Plaintiff’s counsel would be making every effort to file this Motion  
22 correctly, rather than relying on the Court’s efforts to contact Plaintiff’s counsel to  
23 ensure compliance with the statute and correct filing errors.

24 On September 25, 2014, the Court’s clerk again contacted Plaintiff’s counsel.  
25 The clerk left a message with an individual in Plaintiff’s counsel’s office, explaining  
26 that Exhibit 2 needed to be re-filed so that the rate of the two Responsible Attorneys  
27 could be deciphered. On September 25, 2014, Plaintiff filed a Supplemental Document  
28 with Plaintiff’s explanation of the time sheet and hourly rate. (Doc. No. 27.) The

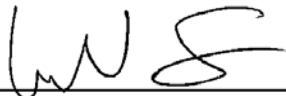
Supplemental Document explained the breakdown of the hourly rates for the Responsible Attorneys and Paralegal staff listed in the itemized statement previously filed as Exhibit 2 (Doc. No. 26). Id. The parties have now provided the Court with an itemized statement from an attorney that states the actual time expended, and the rate at which fees and other expenses were computed, as required by Section 2412(d)(1)(B).

Plaintiff's counsel requests that the fees be paid directly to his law office, subject to any offset from debt owed to the Federal Government. (Doc. No. 25 at 2; citing Astrue v. Ratliff, 130 S.Ct. 2521, 2529 (2010) and United States v. \$186,416.00 in U.S. Currency, 722, F.3d 1173, 1176 (9th Cir. 2013).<sup>1/</sup> Subject to a finding that the Plaintiff owes no debt to the Federal Government, this Court takes no issue with the fees being paid directly to Plaintiff's counsel's law office, as requested.

The Court finds that the parties have now complied with the requirements of Section 28 U.S.C. § 2412(d)(1)(B), that Plaintiff's request is fair and reasonable, and the parties' Amended Motion for Attorney Fees and Expenses Under the EAJA is hereby GRANTED. The Court Orders that Defendant pay Plaintiff the amount of \$3,000.00 under the EAJA pursuant to 28 U.S.C. § 2412(d), subject to any debt that Plaintiff may owe to the Federal Government.

IT IS SO ORDERED.

DATED: September 26, 2014

  
 Hon. William V. Gallo  
 U.S. Magistrate Judge

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<sup>1/</sup> Defendant does not stipulate to the citation of United States v. \$186,416.00 in U.S. Currency, 722, F.3d 1173, 1176 (9th Cir. 2013), and states that it reserves the right to challenge the applicability of this case to any Social Security Case. (Doc. No. 25 at 2, n. 1.)